

**NAHUM, Mr Dan, Economist, Centre for Future Work, Australia Institute**

**STANFORD, Dr James (Jim), Economist and Director, Centre for Future Work, Australia Institute [by audio link]**

[13:59]

**CHAIR:** I'd now like to welcome Dr Stanford, appearing via teleconference, and Mr Nahum, from the Centre for Future of Work at The Australia Institute. The Centre for Future Work lodged submission No. 41. Would you like to make any amendments or additions to that submission?

**Mr Nahum:** No, Chair.

**CHAIR:** Information on parliamentary privilege and the protection of witnesses in giving evidence to parliamentary committees has been provided to you as part of your invitation to appear. Due to time constraints, the committee is asking representatives from organisations to limit their opening remarks to one minute. However, you are welcome to table a longer opening statement.

*The document read as follows—*

The Centre for Future Work is part of the Australia Institute, an independent think tank. Our research program concentrates on labour and employment.

Unfortunately since the Centre's formation, we have observed that insecure work has become more prevalent. These types of employment, including but certainly not limited to casual work, shift financial burden and risk from employers to workers.

The economic brunt of the COVID-19 pandemic was felt most acutely by the significant proportion of workers who were in casual positions or worked variable hours. Later in 2020, we observed the fastest casualisation of the Australian labour market in history, as well increased prevalence of other types of precarious employment. These effects especially impacted women workers and young workers.

The expansion of precarious labour has occurred at a time of record-low wage growth. Precarity makes it more difficult for workers to organise and collectively bargain. And on an individual basis, it undermines workers' ability to ask for higher wages.

One vital area in which insecure work is spreading is publicly-supported human and caring services. Employers are utilising the same insecure and non-standard employment strategies that were pioneered in the private sector: including over-use of part-time and casual work, phony contractor arrangements, and even digital gigs. These practices do not just hurt the people doing these jobs – they also hurt clients and patients. We have published original research into the effects of insecure work on quality of care in NDIS programs. Very similar problems are also rife in the aged care sector, and must be addressed as part of the government's response to the Aged Care Royal Commission.

While much of the government's *Fair Work Amendment Act* was abandoned during its passage through Parliament, the remaining provisions still push the dial in precisely the wrong direction. The new legislation explicitly confirms the right of employers to define workers as casuals, even if the work they perform is regular.

Improving the security of the labour market for workers and their families should be a key component of a long-term strategy for inclusive economic recovery, including expanded public investment, increased spending power for workers to lift aggregate demand, and improved job stability and equity.

Thank you for your attention, we welcome any of your questions.

**CHAIR:** Dr Stanford, would you like to say a few words?

**Dr Stanford:** I will pass to my colleague Dan who's there in person. That will be more effective.

**CHAIR:** Thank you.

**Mr Nahum:** Since the Centre for Future Work's formation, we've observed that insecure work has become more prevalent. These types of employment, which include but aren't limited to casual work, shift financial burden and risk for employers to workers. During COVID-19 the economic brunt was felt most acutely by the significant proportion of workers who were in casual positions or who worked variable hours. Following the initial brunt, later in 2020, we observed the fastest casualisation of the Australian labour market in history, as well as the increased prevalence of other types of precarious employment. These effects especially impacted women and young workers.

This expansion of precarious labour has occurred at a time of record low wage growth, and that's no coincidence. Precarity makes it difficult for workers to organise and collectively bargain. And, individually, it undermines a worker's ability to ask for higher wages. One vital area in which insecure work is spreading, worryingly, is publicly supported human and caring services. We've published original research into the effects of insecure work on the quality of care in NDIS program. Very similar problems are also rife in the aged-care sector and must be addressed as part of the government's response to the aged care royal commission. While much of the government's *Fair Work Amendment Act* was abandoned during its passage through parliament, the remaining

provisions still push the dial in precisely the wrong direction. The new legislation explicitly confirms the right of employers to define workers as casuals, even if the work they perform is regular.

Improving the security of the labour market for workers and their families should be a key component of a long-term strategy for inclusive macroeconomic recovery, including expanded public investment, increased spending power for workers to lift aggregate demand and improved job stability and equity. We do have a longer statement which we will submit.

**CHAIR:** Thanks, Mr Nahum. Senator Canavan, would you like to open up the questions?

**Senator CANAVAN:** Yes. Thanks for your submission and the statement you provided. I want to start with the data. As I have put to others, the rates of casual employment have not been increasing in Australia and remained stagnant for 25-odd years. That was in the 1980s and early 1990s. Does that indicate that casual employment is not all that attractive to employers? If it were, wouldn't it, on the margins, have increased the number of casual workers as a share of the overall economy?

**Mr Nahum:** We certainly observed during the initial brunt of COVID that casual employees lost their positions very quickly—which is, in a sense, the system working as intended. By untethering workers from secure positions, they were easier to fire. We regard that as a negative outcome, certainly for those workers, but also for the economic recovery.

We also noted following that, in the period from May until November, an enormous resurgence of casual labour in the Australian economy: 400,000 casual positions created over those months. That's 2,200 a day, and casual employment increased at its greatest rate that it has in Australian labour market history. Dr Stanford, do you have anything to add?

**Dr Stanford:** I would just mention that first of all the problem of insecure work is bigger than just the issue of casual employment. Casual employment is just one of several forms of insecure work, if we consider other nonstandard types of employment relationship, including part-time jobs, temporary jobs, labour hire and then various forms of independent contractors, many of them quite marginal in nature, and now of course today digital gig work. So the problem of precarious work is bigger than the problem of casual work, and I think it's wrong to focus on the ratio of casual employment as the only indicator. That being said, casual employment has risen and fallen at different times, and since the labour market in Australia began to enter a chronically weak period, say, in the wake of the slowdown in the resource sector and other developments around 2013, casual employment has increased notably. Then of course it fell for the reasons that Dan mentioned during the first stages of the pandemic, but now it's coming back with a vengeance. So I think that casual employment itself has certainly become more common in the last few years, and insecure work defined more broadly has definitely become in a way the new normal for a great deal of the labour market.

**Senator CANAVAN:** You've expressed the situation here of risk being put onto employees or someone who's doing the work. I think that's a useful characterisation. How do we draw the line, though, on where risk is shared here in these instances? Obviously there is a risk of lower demand, demand shocks, things like the pandemic occurring, and particularly if you're a small business in the hospitality sector you face those risks, so how do we decide where that balance is best placed and why is it fair to only think about lowering the risk to employees but not, say, worry about the risks that then would be transferred potentially to small businesses, because they've got to pay a payroll? The second part of my question is: if we do—you guys are economists; I think one of you at least is an economist—transfer too much of that risk onto small business, won't we just see fewer people willing to go into small business and take on that risk and therefore fewer jobs in some of these industries?

**Mr Nahum:** Thanks for the question. I think the most important thing to consider is that incomes don't simply disappear from the economy; they are spent and re-spent, and so when we talk about incomes going to low-wage workers, these are workers with quite a high propensity to spend on the very private businesses that you're describing, Senator.

**Senator CANAVAN:** Can I just stop you there, just to clarify my question? I know we have limited time, so sorry, and if you want to continue down that track, that's fine. But just to clarify my question: I'm not really focussing on the total income here; I was focussing on your point in your opening statement about risk. The risk here is of variability, of ups and downs in the amount of work that's available, so the volume of work, the demand, not necessarily the wage per se; that's another issue, I get that. I do like the characterisation you put on this as risk, but I also think we need to keep in mind that if we take risks off one group, they don't just disappear; the risks will be placed on another group, and in this case almost invariably many small businesses. So what are the criteria we should use to judge what's the best balance of that risk between those who take the risk to start their own business and those that obviously want to work in those sectors and industries?

**Mr Nahum:** Sure, thanks for the clarification. I think there's a third major player in terms of that burden of risk, and the government has identified through its actions that it identifies itself as a major player in mitigating economic risk during downturns through the JobKeeper program and relatedly through the JobSeeker COVID supplement. JobKeeper in particular was an acknowledgement that during times of major economic stress, government does have a role to step in to mitigate the effects of some of that stress, large quantities of that stress, on both businesses and employees, so for that reason we found it a bit puzzling that the JobKeeper program saw fit to exclude some of the most vulnerable workers—namely, casuals with less than one year's tenure—from the program. Dr Stanford, do you have anything to add?

**Dr Stanford:** Thank you, Dan, and thank you, Senator. A couple of points: again, first of all, the use of casual labour is not limited to small businesses; the practice occurs with large employers as well that are not as vulnerable. Secondly, even if you're in a permanent position, that doesn't mean the worker has no risk. Their employment still depends on the viability of the business. We haven't suggested that the casual labour relationship should be abolished; we have said simply that they should be organised and limited to the situations where fluctuations in demand for seasonal reasons or the ups and downs of normal business are fitting for casual labour rather than the current practice of employers using a casual labour relationship even for flows of work that are quite regular and predictable. It's that misuse of casual labour that is our main concern here.

**Senator CANAVAN:** Just my last real question here: as economists I'm sure you're familiar with the Keynesian concept of the economics of the firm. We have this strange structure that has evolved in our economy of a firm, of a business, and Ronald Coase makes the very salient point that the reason we have that is the transaction costs. There are a lot of transaction costs associated with doing a contract, providing a service, and we can lower those transaction costs by having a firm and reducing those. It seems to me what has happened here, though, is that we've had all this technology, including through these apps, which have got rid of and removed a lot of the transaction costs of matching a consumer with an ultimate producer or service provider. So wouldn't we want to allow that to happen to reduce transaction costs in the economy and become more productive by doing so? A related question and what I worry about is: I think that development is a very positive one; the corresponding risk here is that these new platforms aren't really firms in the traditional sense, have a lot of network externalities and will just become bigger monopolies, if you like, across the network and not really be exposed to competition and potentially lowering costs through the economy. Does that make sense?

**Dr Stanford:** That's an interesting observation, Senator, drawing in the Coase literature. A couple of points that I would make: (1) the practice that is followed in the so-called gig economy, these digital on-demand platforms, is not actually new and is not limited to this modern digital web technology. In fact you can find examples of firms that have tried to arrange labour on a contingent on-demand basis, requiring workers to provide their capital equipment and paying them on a piecework arrangement, for centuries. So you can go back to—

**Senator CANAVAN:** I completely accept that. What is new, though, is matching that with the ultimate consumer. Most of those examples, I would have thought, in the past wouldn't necessarily have been the consumer themselves organising such a service. These technologies do get rid of these matching problems. Anyway, go on.

**CHAIR:** Senator Canavan, let's let Dr Stanford answer, thank you.

**Senator CANAVAN:** It's just we've a limited time, Chair, but yes.

**Dr Stanford:** In most of the digital platforms that we're talking about today the worker does not directly connect with the consumer; there absolutely still is a firm, so transaction costs haven't got rid of the firm. They're still Uber or they're still Uber Eats or they're still the platform, which is very much a company; it's just that they have changed the relationship between the people doing the work, and the reason that the contracting arrangement is so artificial for these workers is precisely that they still depend on the firm to assign them to these jobs, organise payment and then give them a share of the payment at the end. So it absolutely is not a question of connecting workers directly with consumers. That's the charade that the digital platforms are trying to promote, but in fact they are still at the middle of the whole relationship.

**Senator CANAVAN:** This is not a question; I just say that's definitely not my experience of those apps. You do deal directly with the driver in a way you wouldn't with a traditional taxi service. But I'll leave it at that.

**CHAIR:** There have been court comments by the Federal Court contrary to that position, Senator, and also decisions around the world.

**Senator WALSH:** I will attempt to actually ask some questions and make them relevant to the submissions. Your submission talks about putting job security at the heart of our recovery, and you talked today about the

importance of human and caring services, particularly the NDIS and aged care, in our economic recovery. Can you tell us more about how better job security in those sectors could help our economic recovery overall?

**Mr Nahum:** Thank you, Senator. I direct you to page 19 of our submission, if I may, and recommendation 5, and I'll just directly quote from it for a minute here:

Governments should commit, wherever practicable, to employ staff in permanent and direct positions, rather than temporarily and/or through third parties such as labour hire companies. Doing so will have several positive effects:

a. It will improve the ongoing capacity and resilience of government service delivery—

So that's really about ongoing corporate memory and ability, if you like—

b. As governments are such large employers, an improvement in the quality of employment offered by governments would mean that other employers would have to lift employment standards to respond to the additional upwards pressure placed on conditions, especially wage certainty, by government.

c. This 'demonstration effect' is an important lever for government to improve wages and conditions across the economy.

d. Additionally, the confidence engendered by a significant cohort of government workers being employed under more stable conditions means that consumer spending by these workers, and hence business revenues and activity, will increase.

We've looked at several instances in our research where we've examined the advantages of improved wages and conditions in various public sector settings boosting consumer spending and boosting macroeconomic resilience through improved consumer spending because governments are such large employers. Dr Stanford, did you have anything to add?

**Dr Stanford:** Sure, thank you. Senator Walsh, perhaps I'll add a little bit from some of the specific research we've done in human and caring services, including some qualitative research with people who are working through the NDIS system to deliver personal care to people with disability, and there's a very strong finding in research that the quality of care in human services very much directly depends on the quality of work for the people providing the service. In fact it's hard to differentiate between the working conditions that people experience in those jobs and the quality and stability of care that their clients or patients receive as a result, and we found that as work in human and caring services tended to become less secure—and the design of the NDIS around a market-delivered vision contributed greatly to that—workers had a great deal of difficulty having enough time to properly serve their clients. They spent a lot of often unpaid time travelling from one client to another.

We saw a process of regular jobs transformed into casual work and part-time jobs and in some cases even gigs. We have seen the expansion of digital platform models of service delivery into human and caring services, so I'm very much concerned that the model of fragmented piecework labour which the Ubers of the world are pioneering will very much extend. It won't just be a question of taxi rides and pizzas anymore; it will be human beings whom we love and care for but who are going to be receiving services on exactly the same business model, and I think that would be a disaster. So I think government's responsibility as the ultimate funder of these services both to the patients and clients who receive the services and to the workers who are delivering them is to make sure that they're funded and structured in a way that is consistent with high-quality, stable, well-paid, well-trained employment, and in an insecure, precarious labour market that isn't going to be the case.

**Senator WALSH:** Governments are effectively the lead employer or the economic employer in sectors like aged care and the NDIS. What do you see as their responsibility in trying to generate greater job security and better wages in those sectors? These are big, growing sectors. This is where the jobs are growing in our economy, so what are the consequences more broadly if we don't create decent, secure jobs in these industries for the economy as a whole?

**Dr Stanford:** You're quite right, Senator, to identify these sectors as leading job creation in the future. Too often we see these services as being just a cost item on the government budget. In fact, they're an economic driver. The need for these services is growing and there's potential to create hundreds of thousands of jobs in disability services, higher quality aged care and other human services, like early childhood education, for example, where Australia lags badly. A expansion of early childhood education services could create hundreds of thousands of jobs. The question is: what kinds of jobs are they going to be? This is where you're right: the government has the ultimate authority to arrange the rules of the system, even though in most cases the people are not working directly for governments, although there are some direct public providers in all of those areas. Most of them are working for independent agencies who get their funding through government. In that situation, the government has to tie the level of funding and the conditions of the funding to a model in which it's possible for the workers to have decent, stable employment that is consistent with retention, with ongoing training and with high quality of service delivery. This is where the governments involved are going to have to bring more funding

to the issue, but also a clearer expectation that government funded services in all of these areas have to meet the standards of stable, decent work. This is going to be a vital issue in the government's response to the aged-care royal commission. The royal commissioners recognised the huge consequences of unstable, badly-paid jobs in aged care for the quality of care that they exposed through their investigation. They said we have to move to a situation where, first of all, these are employees. They were explicit on that—they should not be contractors; they should be employees—and they have to be paid and hired on a stable basis so that they can acquire the skills and experience necessary to deliver the highest quality of aged care.

**Senator WALSH:** Thank you. You say in your submission that the collective voice, representation and bargaining power have declined over time, and that's one of the drivers of insecure work. In recommendation 7, which is quite a detailed recommendation, you talk about measures that could assist in rebuilding secure jobs through reforms to our industrial system. In particular, you talk about sectoral bargaining. Could you talk us through what you mean about the decline of collective voice and why measures like sectoral bargaining might be important?

**Dr Stanford:** The evidence is very clear that collective representation in Australia's labour market has declined dramatically over the last decade, measured by various indicators, such as union membership as a proportion of total employment or the proportion of employees who are covered by an enterprise agreement, particularly in the private sector. Both of those indicators have declined. In the private sector in Australia, only about 12 per cent of workers have an enterprise agreement that sets their terms and conditions of work, presumably at a level higher than the minimum standards under the modern awards. The trend is not quite as dramatic in the public sector, but it's still been declining. The erosion of collective representation and collective voice has negative impacts on the stability and the relationships that are essential, particularly in human and caring services, as we were just discussing. I think it behoves labour market policymakers to think about ways that the opportunities for collective voice and representation in workplaces could be strengthened.

There's no doubt, from looking at international experience, that multiemployer or sector-wide collective bargaining arrangements, which are very strictly limited in the Australian case—they almost don't exist in Australia; they're technically possible, but the conditions under which it can occur are so strict that it almost never occurs—are important ways to bring effective collective bargaining rights to workers and industries that are marked by large numbers of smaller providers, or a more fragmented or decentralised industrial structure, if you like. In those circumstances, the traditional methods of trying to organise union representation or negotiate with employers one at a time aren't generally feasible in industries that are distinguished by very large numbers of very small employers. That includes some human and caring service sectors, like home care, for example, or the early childhood education that we've been talking about. There's a growing view among labour experts in Australia that opening the possibility for sector based bargaining, in particular in sectors where low pay and insecure jobs are rife and where conventional collective bargaining mechanisms haven't been effective, is an important opportunity to try and lift the conditions of work in those sectors.

**Senator WALSH:** Thank you.

**CHAIR:** We'll go to Senator Faruqi.

**Senator FARUQI:** Good afternoon to you both. In your submission and also in your opening statement, you mentioned that women and young workers are disproportionately impacted during the pandemic. Could you elaborate on that a little bit more and how that links with insecure work?

**Mr Nahum:** Women's employment and young people's employment have a significant overlap with more precarious forms of employment, including but not limited to casual employment. Part of that is to do with the way women move through the labour force during their life. For cultural and historical reasons, a lot of care work in the informal economy—that is, in the nonmonetary economy—is performed by women, and that can have an effect on the patterns of employment that women perform. That means that their work is more precarious over the course of life. Young people tend to be the last hired and first fired. Also, given the increasing precarity of the Australian labour market over time, they have been less able to access secure employment than their older co-workers. The types of roles that women and young workers perform in the economy is another factor. A lot of jobs, including those in hospitality, retail, and arts and recreation roles are performed by young people, and women workers are also more represented in those sorts of roles. We've already talked about how casual employment is the easiest employment type to eliminate or roll back as the economic effects of the COVID pandemic hit. Many young workers were excluded from government programs such as JobKeeper, because of the stipulation that employees with less than a year of tenure are ineligible for JobKeeper. That affects people who are moving through the labour force in a more transient way. Perhaps my colleague Dr Stanford has something to add.

**Dr Stanford:** No. I think that sums it up very nicely.

**Senator FARUQI:** You've also talked a bit about caring work. There were a few questions earlier about that. You said in your opening statement that precarious work has been increasing in the caring work economy as well. What do you see as the short-term as well as long-term effects if insecure work in those sectors continues?

**Mr Nahum:** First of all, I'm an economist; so I'm going to say that it would be macroeconomically dangerous. Essentially, it takes resilience out of the macroeconomy, because our wage is our spending power, after all. To the extent that it's easier for businesses to respond to economic downturns by firing workers or letting workers go, that encourages a pro-cyclic effect in the macroeconomy, where those are wages that are no longer being spent back in the economy. We describe that as a vicious cycle.

The other point that I'd make is that it's obviously going to be socially deleterious, of course, because people are going to find it very hard to establish stable lives and establish families, and housing tenure—regardless of whether it's purchasing or renting—is going to be more difficult if your income is insecure. Those are some of the factors that come to mind. It strikes me that this is a trend that, for the sake of our social cohesion as well as our economic resilience, needs to be reversed. Dr Stanford, do you have anything to add?

**Dr Stanford:** In addition to those macroeconomic factors that Dan has mentioned, in the human and caring services area, another consequence of the precarious work strategies that are expanding in those areas is experienced directly on the quality of care. Because you have a situation where in a sort of marketised model, as we've implemented under the NDIS, for example, you've moved away from a block funding model where community agencies are established with a relatively secure financial base to provide an identified group of services in a certain area. You've moved away from that towards a sort of unit price market driven model where those agencies basically have to become businesses trying to sell their output or market their output to individuals who then choose that agency to provide the service, and then the agency is funded on a per unit basis according to the price schedule set out in the NDIS. This is a dramatic shift in the way of operating for these organisations, which they have responded to in part by trying to shift that instability and risk onto the backs of their workers, who have been converted en masse from regular permanent jobs, even part-time jobs, onto casual work. Almost all of the new work created in disability services under the NDIS, for example, has been casual work.

Our firsthand research with NDIS workers showed that this insecurity in their working arrangements, not knowing how often they would work and what the hours would be, and this problem of broken shifts where they have a couple of hours here and then a couple of hours there later in the day all contributed to discouragement about this as an adequate career. It led to a huge turnover in the workforce, which means that the clients didn't necessarily even know who was coming to serve them the next day—there was so much turnover—and huge amounts of mental and physical stress involved.

So, in addition to those kind of cold, hard economic numbers, there's also the, in a way, intangible or priceless aspect of what quality of care we are going to be providing to people through arrangements that rely so heavily on insecure labour.

**Senator FARUQI:** A pretty bleak future if we continue on this trajectory. In your submission, you have mentioned that there has been a rise in self-employed independent contractors, including those in the gig economy. How has this rise in independent contractors impacted on work insecurity?

**Mr Nahum:** I would suggest that that's a symptom of work insecurity as much as a cause. Following the initial impact of COVID-19 and that initial economic impact early in 2020 or in the first half of 2020 we saw a recovery in employment that was partially characterised by the employment type that you're describing—sole traders, without employees, with unincorporated businesses, essentially. That's gig work in a lot of instances. These are people who are presenting as contractors, but probably shouldn't be. In a sense, the way they were conducting their employment in many cases was more as if they were employees rather than as if they were independent contractors. That's certainly redolent of some of the most precarious employment in our economy.

**Senator FARUQI:** Do you think that impacts migrant workers and people of colour living in this country more because they're overrepresented in those situations?

**Mr Nahum:** Yes, absolutely, and also lack access to the social security system in a lot of cases if they're not Australian citizens. So, yes, absolutely, it would have an outsized and disproportionate impact on that particular vulnerable cohort.

**Senator FARUQI:** Dr Stanford?

**Dr Stanford:** I would just confirm Dan's judgement there. In our experience, people often go into these very undercapitalised, unincorporated small business operations where they don't have any other employees and they're working on a self-trading basis because they don't know what else to do and they haven't had access to the core of

the labour market where better jobs would be available. As to the kind of myth that people want to be self-employed and be their own boss et cetera, in some cases, that's true and those are legitimate businesses but, in more and more cases, we've noticed a shift towards very marginal and very insecure forms of self-employment that reflects the inability of people doing those jobs to land something more secure.

**CHAIR:** We will go to Senator Small.

**Senator SMALL:** Thanks, gentlemen. What percentage, roughly, of the Australia Institute's funding comes from the union movement?

**Dr Stanford:** The Australia Institute gets funding from a wide range of different organisations, including foundations, philanthropists, individual donors and contract research for different projects and papers, and some comes from trade unions. It's a very small share that comes from trade unions in total.

**Senator SMALL:** Would you care to give me a percentage?

**Dr Stanford:** No; I don't have the financial statements in front of me.

**Senator SMALL:** I noticed that you guys have a lot to say about donations politically for the mining industry, the gun lobby, pay for access and all that sort of thing. So I was just curious. Your website was less than clear to me. But, anyway, to the matter at hand: with the gig economy stuff that we have been talking about today, employment changed considerably in a part of Geneva with respect to rideshare, where independent contractors were reclassified as employees and given all the associated entitlements that went with that, and there was a 77 per cent drop in the number of people earning through the platform. I point to this as an example of where regulation has actually driven a whole bunch of people from insecure employment into no employment. Do you have a view on that?

**Dr Stanford:** I'm not sure that the Swiss example shows that they've been driven into no employment. Switzerland have a very low unemployment rate and they have a very high standard of living and a very strongly regulated labour market. So the decision to ensure that people working through gig platforms are receiving the same entitlements and protections as other workers, if anything, is strengthening labour protection in Switzerland. If the platform employment dropped by 77 percent, that's evidence that those platforms' business models required the ability of the companies to evade minimum wages and other normal labour laws. If the employment in those platforms has dropped, what's happened is those people have moved into regular paying jobs, which in Switzerland are very good. So the fact that a platform goes out of business because some of their practices have been proven to be illegal isn't testimony that regulation destroys jobs; it's testimony that it isn't a good idea to start a business that depends on being able to evade basic standards like the minimum wage.

**Senator SMALL:** This hasn't affected Uber's operations in Geneva at all. It's just that four out of five drivers that were working for them don't work anymore. We've got a very low unemployment rate again here in Australia, and yet previous witnesses here today said that a whole bunch of people can't get work. Clearly, there's a problem somewhere, in terms of barriers to more hours and more work for Australians, if I take that at face value.

**Dr Stanford:** It is possible that the regulation of the digital platform will result in fewer people working there but under better conditions. The New York City example is a good case study, where the requirement by the city licensing bureau that people working in rideshare platforms have to be able to earn an effective rate of income that's at least equal to the minimum wage has caused the platforms to limit the number of people who log onto the platforms at any given point in time. Right now, gig driving in Australia is one of the careers where there's no effective limit on supply at all, and the desperation of people who are looking for a little bit of extra money means that the number of drivers on is so high that the people who are driving can't earn a decent wage. Part of the solution to that, if it's going to maintain the digital platform at all, is ultimately going to be to limit the number of drivers who can log on, and that will allow the people who are working to earn at least the minimum wage. In that regard, the idea that it limits the number of people driving would end up being a good thing, because the people who are left in the industry are going to earn a living wage.

**Senator SMALL:** Another part of your submission says that casual employment status should be limited to situations that are truly casual. Does that by implication mean that you're saying that no Australian should be able to choose to be employed casually?

**Mr Nahum:** No, I think—

**Dr Stanford:** You can choose to be—I'm sorry; go ahead, Dan.

**Mr Nahum:** I was simply going to say that to the extent that those jobs are available—seasonal work and the like—of course, those jobs will be available as a source of employment for people who do wish to be employed casually. What were you going to add, Jim?

**Dr Stanford:** That's exactly what I was going to say.

**Senator SMALL:** I have worked in the shipping industry professionally as a casual, and that was a choice that I made. There's nothing seasonal about the shipping industry. Does that statement—that casual employment status should be limited to situations that are truly casual, by decree of government or public policy—effectively mean that you're advocating for the removal of that choice for Australians who choose to take the 25 per cent loading in lieu of other entitlements?

**Dr Stanford:** I don't know if you can actually choose to. You still have to have somebody hire you in that position. If the issue is, 'Can you be bought out of basic entitlements by getting a top-up on wages,' if in fact that's an abuse of the category that that position was designed for, then, yes, it absolutely should be restricted. If we get into a situation—

**Senator SMALL:** But surely I'm better placed to make that determination?

**Dr Stanford:** You could be better placed to make the decision to decide to work for \$5 an hour, but that doesn't mean that you should have the right to do that. The whole point of minimum standards, such as guaranteeing anyone in a regular job the right to sick pay, is precisely to ensure that everyone gets those entitlements, because it's good for them and it's good for the economy and society. Allowing people to contract out of those minimum standards is simply opening the door to a race to the bottom that will hurt us all.

**Senator SMALL:** I'm being given a wind-up signal, so I'll have to let it go.

**CHAIR:** I think you gave it a very good go, Senator Small. I want to ask a couple of questions, because we're getting close to time. Dr Stanford, in your experience with the gig economy and from your studies, what have you found are the typical working conditions in the gig economy, particularly for food delivery and rideshare?

**Dr Stanford:** We've done some research into the rideshare business in particular in Australia, looking at the economic parameters of that work, and we found that under almost any circumstances the people in that industry are not making the basic minimum wage in Australia. They're also denied other normal entitlements like sick pay, which is obviously important during a pandemic, superannuation contributions, workers compensation and so on. If you properly account for the expenses that these workers incur and you account for the unpaid time that they spend waiting to be assigned a job then the vast majority of them do not make the minimum wage. Some of the studies that the companies themselves have put out in that regard, claiming that people are willing to do this because they appreciate the flexibility, I have found very misleading and their methodology to be very suspect.

**CHAIR:** We've received evidence that a company in the food delivery industry, Menulog, intends to regulate for minimum wage standards, workers compensation and other benefits through a collective agreement and has also recommended portable leave between companies for the food delivery industry. Separate to that, Deliveroo and Uber, while supporting portable leave, have not said that they support a minimum wage for contractors or collective bargaining. What do you see as the consequences of those two different approaches?

**Dr Stanford:** I think the Menulog approach is a very honest, sincere and positive attempt to combine the benefits of a digital dispatch system with the stability of an employment relationship with the people doing the actual work. It's often assumed that, if you're instructed on an app where to go to pick up your ride or who to deliver the food to, you somehow can't be paid an hourly wage. That's nonsense. If in fact it is a more efficient dispatch system, which in some ways it is, that should absolutely facilitate better working conditions, not the conversion of workers into a phoney contractor-type relationship. I think the Menulog development is very promising, and it should in fact be required of businesses that depend on the labour of people who effectively have no control over the conditions or the price of their work and are dependent on the app for their work. They are not genuine independent contractors. All of them should be paid a basic minimum wage and the basic entitlements, so I think the Menulog initiative is very promising.

**CHAIR:** This is more of a statement from me: it's rather like dystopian-type tech companies that are running like elites in *The Hunger Games* whilst the workforce is heavily competing for the next trophy, hoping to survive. If you have, in the same market, employee-type arrangements, sham contracting and workers providing labour but operating as contractors, what instability does that cause to the market, and, for what might be considered best practice, what are the pressures on companies that provide best practice?

**Dr Stanford:** It's very hard in a competitive market situation for a company to try and do the right thing if all of its competitors are allowed to, in this case, effectively evade the normal conditions of doing business, like paying a minimum wage to your workforce. It will be interesting to see how the Menulog approach goes. I think

it's possible to organise that type of a business while having the people on employment status. It may not actually lead to a big increase in labour costs either, frankly. It will require more active management, in terms of deciding who has to be on at any given point in time. Right now, Uber just allows people to self-select whether they're going to be on or not and assumes that there are enough desperate people out there to meet demand at any given point in time.

I think the Menulog approach will require a more active role by management, which is in fact what managers are supposed to do, rather than outsourcing their work to an app. It's possible that it will be sustainable, even within the current competitive environment, which is allowing Uber and the others to avoid minimum wages. But, at the same time, I think policymakers should recognise this as a threat that will not just be in the food delivery business and the rideshare business. We're seeing it spread into other important areas of our economy, including caring for our aged and caring for people with disabilities. Ultimately, government is going to have to rein in this gigantic loophole in our existing labour standards, otherwise, this practice will spread.

**CHAIR:** We're moving from an algorithm on an app to human contact and accountability as the desired outcome. Is that correct? Do you have any comment on that?

**Dr Stanford:** Absolutely. The use of the technology by the digital platforms today is simply a way of tapping into a group of desperate workers, most of them young, many of them newcomers and racialised workers, who will, out of necessity, put up with the fact that they can't make the minimum wage and that they may have to sit there for hours without getting a ride or a job—but they'll do it because that's how desperate they are. In this situation, I think it would be good policy to think about ways to make the minimum standard apply evenly across all of these industries.

**CHAIR:** I'd like to thank you, Dr Stanford and Mr Nahum, for your evidence this afternoon. It will be of great assistance in our consideration for the final outcomes and recommendations from the committee. Thank you again, and we'll now suspend for a break.

**Proceedings suspended from 14:49 to 15:00**